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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

12-CR-48 (RPP)

5 HORST WALTHER OVERDICK-MEJIA,

6 Defendant.

Arraignment

7 -----x  
8 New York, N.Y.  
9 December 11, 2012  
4:35 p.m.

10 Before:

11 HON. ROBERT P. PATTERSON, JR.,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the  
Southern District of New York

17 SHANE T. STANSBURY

Assistant United States Attorney

18 WILLIAM ALEXANDER CLAY, ESQ.

19 Attorney for Defendant

20 ALSO PRESENT: RONALD COLLADO, DEA

21 ALSO PRESENT: JORDAN FOX, Spanish Language Interpreter

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(In open court; case called)

THE CLERK: Is the government ready in this matter?

MR. STANSBURY: We are, your Honor. Good afternoon.

Shane Stansbury for the government. And with me at counsel table is Special Agent Ronald Collado from the DEA.

THE COURT: Good afternoon, Mr. Stansbury and Mr. Collado.

THE CLERK: Defendant ready in this matter?

MR. CLAY: Yes, your Honor. William Clay representing Horst Walther Overdick Mejia. We are ready, your Honor, for initial appearance and arraignment.

THE COURT: Good afternoon, Mr. Clay, and good afternoon, Mr. Overdick Mejia.

THE DEFENDANT: Good afternoon, your Honor.

THE COURT: We have a court-certified interpreter in Spanish here. If Mr. Overdick Mejia can understand the interpreter easily, would he raise one of his hands.

He's raised one of his hands.

Has this man been presented to a magistrate yet?

MR. STANSBURY: He has not, your Honor. We're on for both presentment and arraignment, your Honor.

THE COURT: Mr. Horst Walther Overdick Mejia, you have a right to remain silent. You need not make any statement. Even if you've already made statements to the authorities, you need not make any additional statements. Any statements that

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1 you do make can be used against you. You're entitled to call  
2 the consulate of your country and have them informed of your  
3 arrest here. You have a right to be represented by an attorney  
4 at all future proceedings in this case and today, and if you're  
5 unable to afford an attorney, I will appoint an attorney to  
6 represent you. I see you have Mr. Clay with you. I take it he  
7 has been retained to represent you in this matter; is that  
8 correct?

9 THE DEFENDANT: Yes, your Honor. I hired Dr. Bill to  
10 be my attorney.

11 MR. CLAY: Your Honor, just to clarify something, I'm  
12 commonly referred to as Bill Clay. Many Latin clients call me  
13 Dr. Bill. They use Dr., referring to lawyer or -- so he's  
14 saying, "I retained Dr. Bill," meaning me, and he has signed a  
15 retainer agreement, an engagement letter. I filed a notice of  
16 appearance.

17 THE COURT: Is that correct, Mr. Overdick Mejia?

18 THE DEFENDANT: That is correct.

19 THE COURT: Mr. Bill is the man standing next to you  
20 and you retained him?

21 THE DEFENDANT: Yes, your Honor. I'm referring to  
22 Mr. Billy Clay as my defense attorney.

23 THE COURT: Good. All right. Then are we ready for  
24 arraignment, Mr. Clay?

25 MR. CLAY: We are, your Honor. I reviewed the

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1 indictment with the defendant, my client, reviewed it in  
2 Spanish with the assistance of my colleague, Roy Rodriguez, who  
3 is a fully bilingual attorney speaking English and Spanish, who  
4 incidentally had been a professional interpreter, corporate  
5 interpreter for many years. We reviewed the indictment.  
6 Mr. Overdick understands it. We would waive formal reading of  
7 the indictment, enter a plea of not guilty, request trial by  
8 jury, invoke discovery provisions, and I would point out to the  
9 court that Mr. Overdick waives extradition in this country and,  
10 through the assistance of a Guatemalan attorney, the  
11 extradition process was accelerated considerably, so he's made  
12 an effort to come before the court to answer these charges and  
13 he's glad to be here, and of course his government, considering  
14 it was an extradition, is fully aware of his presence.

15 THE COURT: All right. Well, let me ask Mr. Overdick  
16 a few questions. Horst Walther Overdick Mejia, Mr. Clay, have  
17 you seen a copy of the indictment charging the defendant with  
18 conspiracy to violate the narcotics laws of this country  
19 between the dates of 1999 and up to and including about 2011,  
20 by conspiring to distribute and possess with intent to  
21 distribute and the unlawfully importing into the United States  
22 or within borders within a distance of 12 miles of a coast of  
23 the United States at least 5 kilograms of cocaine in the first  
24 count and in the second count charging, in connection with the  
25 crime charged in the first count, the defendant used and

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1 carried a firearm in furtherance of such crime between those  
2 dates of 1999 and 2011? Mr. Overdick, have you discussed with  
3 your attorney the indictment charging you with those two  
4 crimes?

5 THE DEFENDANT: Yes, your Honor. The attorney gave me  
6 a good explanation of all of this.

7 THE COURT: And do you want me to read the indictment  
8 to you at this time or do you waive the reading of the  
9 indictment? Do you waive a reading of the indictment?

10 MR. CLAY: I would suggest that the interpreter, if I  
11 might, with all due respect, if he asks the question if  
12 Mr. Overdick requires the court or would like the court to  
13 read, I think he'll better understand the question.

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: I don't know whether you're answering the  
16 court or whether you're answering the --

17 THE INTERPRETER: Your Honor, the interpreter just  
18 repeated what the defendant said.

19 THE COURT: I'm sorry?

20 THE INTERPRETER: The interpreter is repeating what  
21 the defendant said.

22 THE COURT: All right. Then he waives the reading.  
23 You waive a reading of the indictment; is that correct,  
24 Mr. Overdick?

25 THE DEFENDANT: Yes, I do so waive, your Honor.

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1 THE COURT: And you want a plea of not guilty entered  
2 in your behalf at this time?

3 THE DEFENDANT: What was that?

4 THE COURT: Do you want a plea of not guilty entered  
5 on your behalf at this time?

6 THE DEFENDANT: I plead not guilty, your Honor.

7 THE COURT: All right. A plea of not guilty will be  
8 entered on behalf of the defendant, Horst Walther Overdick  
9 Mejia.

10 When will the government make the necessary discovery  
11 to the defense?

12 MR. STANSBURY: Your Honor, we would propose sometime  
13 in the second week of January that we set a date. We can, of  
14 course, begin producing discovery immediately, and I'll just  
15 note there are some things that are going to be translated in  
16 this case and we're also expecting some items from Guatemala  
17 which may take a little bit of time. If it looks like it's  
18 taking beyond that, I can update the court as to where we are,  
19 but I would propose some date in the second week of January to  
20 be safe at this point.

21 THE COURT: Well, discovery will be made of the  
22 evidence you have here at this time?

23 MR. STANSBURY: Correct.

24 THE COURT: By what date?

25 MR. STANSBURY: I would propose January 11<sup>th</sup>.

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1 THE COURT: And then in the meantime you'll also try  
2 and get the discovery from Guatemala --

3 MR. STANSBURY: Of course.

4 THE COURT: -- by January 11<sup>th</sup>? And what do you  
5 want to do, have a conference after January 11<sup>th</sup> or determine  
6 how long the defense wants for any motions?

7 MR. STANSBURY: Can I consult with defense counsel for  
8 a moment?

9 THE COURT: Or do you want me to set a schedule for  
10 motions at this time?

11 MR. STANSBURY: Since they're coming from Miami, if we  
12 can talk for just a second about a possible date.

13 THE COURT: Sure.

14 (Counsel conferring)

15 THE COURT: You can be seated, Mr. Overdick.

16 MR. STANSBURY: I'm going to allow defense counsel to  
17 answer because they're traveling, and I think my schedule's  
18 more flexible than theirs.

19 MR. CLAY: Your Honor, if the court please, we would  
20 ask the court to schedule the next conference in February and  
21 permit us till second week of February to file motions. We do  
22 anticipate extensive discovery, and I think the government does  
23 have quite a few logistical issues in assembling that all, and  
24 that based on conversation with government counsel, I know they  
25 were going to make a very diligent effort, and we're satisfied

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1 with that effort.

2 THE COURT: So you'd like to have what date in  
3 February?

4 MR. CLAY: February -- I don't know if it works. I  
5 don't have a calendar. February 11<sup>th</sup>?

6 THE COURT: Since you have to travel, I'll accommodate  
7 your schedule.

8 MR. CLAY: I'd ask for approximately February 11, in  
9 that time frame.

10 THE COURT: Monday, Wednesday, Tuesday, make a  
11 difference to you?

12 MR. CLAY: Midweek would be fine, your Honor.  
13 Whatever fits the court's schedule is fine with us.

14 THE COURT: I'll accommodate you.

15 THE CLERK: 11<sup>th</sup> at 2? That's a Monday. Or the  
16 13<sup>th</sup>.

17 MR. CLAY: For us the 13<sup>th</sup>. Monday is always a  
18 difficult travel day.

19 THE CLERK: February 13<sup>th</sup> at 2. February 13<sup>th</sup> at  
20 2.

21 THE COURT: February 13<sup>th</sup> at what time, Robert?

22 THE CLERK: 2:00.

23 THE COURT: 2:00?

24 THE CLERK: 2:00?

25 THE COURT: Don't like the sound of that. Can't we do



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1 it at 4:00? That cuts into the trial day. What about 1:00?

2 THE CLERK: 13<sup>th</sup> at 1?

3 THE COURT: 13<sup>th</sup> at 1.

4 MR. STANSBURY: Your Honor, if I may, of course I'd  
5 ask to exclude time until that day so the parties can both --  
6 so defense counsel --

7 THE COURT: Can view discovery and consider motions.  
8 I'll exclude time under the Speedy Trial Act until  
9 February 13<sup>th</sup>.

10 MR. STANSBURY: Thank you, your Honor.

11 I also want to just state for the record, because I  
12 didn't before, just for purposes of presentment, that the  
13 defendant did land in the district approximately 10 p.m. last  
14 night, on the extradition.

15 THE COURT: In the district? You mean Westchester --

16 MR. STANSBURY: Exactly. White Plains.

17 THE COURT: -- or Newburgh? All right.

18 Anything further to come before the court? Any  
19 applications?

20 MR. STANSBURY: Not from the government.

21 MR. CLAY: Nothing from the defense, your Honor.  
22 Thank you.

23 THE COURT: All right. Thank you very much.

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